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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,420	07/31/2001	Keith L. Shafel	005186.P002	4204
8791	7590	02/04/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			GEDRICH, SARAH R	
		ART UNIT		PAPER NUMBER
				3625

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/919,420	SHAFTEL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Sarah R. Gedrich	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 31 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "142". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The disclosure is objected to because of the following informalities:

- "such as those described in the tables above it," recited in paragraph 0034 should be "such as those described in the tables above."

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-7, 9, 12-18, 20, 23-24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al. Patent Application Publication US2002/0032610 (hereinafter referred to as "Gold") in view of Borgato US Patent No. 5,950,178.**

1. Referring to claim 1. Gold teaches a method for providing automated delivery of a response to a pricing inquiry. Gold further teaches:

A method comprising:

- Determining a sale price for said product utilizing said product cost: Pricing tables may include current price tables containing OEM [original equipment manufacturer] prices for each part by quantity break, a futures pricing table

containing reference prices by timeframe, a table containing other price points such as distributor book cost, a reference price to base future pricing conversions, manufacturer costs, minimum costs, or other user-definable price points (Gold: paragraph 0035). The Sale rule is used to determine a new price (Gold: paragraph 0037).

- Determining a competitive price for said product utilizing said product attribute: the price can be provided in response to an automated request to respond to target pricing based on user input criteria, such as target price, competitor, competitor part number, etc (Gold: paragraph 0032).
- Comparing said sale price to said competitive price: the OEM price can be calculated, converted to resale or cost and compared against the target (Gold: paragraph 0039).

Gold fails to teach receiving a product attribute and a product cost corresponding to a product from a vendor via a communications network and automatically displaying said product for sale on a website at said sale price in response to said comparison.

Borgato teaches a data processing system and method for facilitating transactions in diamonds. Borgato further teaches:

- Receiving a product attribute and a product cost corresponding to a product from a vendor via a communications network: Positions are provided on the graphic offer display for the seller to input the actual weight, the number of stones at that weight, the offer price per carat, and, if desired, a stock number for the diamond. The seller is offering a stone for sale, which would fall into

the array category, which has been highlighted in the array window of the data matrix array (Borgato: Column 9, line 58-65).

- Automatically displaying said product for sale on a website at said sale price in response to said comparison: the stone offered for sale represents the lowest offer price and accordingly the offer price matches the price of the stone listed. Furthermore, it is seen that in the transaction display the data entered to the host processor from the terminal concerning the stone is also included. Again the transaction display is updated for any stones being entered into the system to be offered for sale (Borgato: Column 10, lines 51-59).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include receiving a product attribute and a product cost corresponding to a product from a vendor via a communications network and automatically displaying said product for sale on a website at said sale price in response to said comparison as taught by Borgato in order to define the factors that may contribute to the overall value of the stone (Borgato: Column 1, lines 33-34) and provide a more precise and up to [date] guidance as to a fair price to either buyer or seller (Borgato: Column 1, lines 46-47), respectively.

2. Referring to claim 2. Gold further teaches:

- Determining a sale price for said product utilizing said product cost comprises applying a sale price modification factor to said product cost: Sale Rule: new price = min (OEM price, amount) (Gold: paragraph 0037).

- Sale price modification factor is selected based upon said product cost: The selected criteria for the business rules may include items such as customer, customer class, geography, channel of distribution, part, part family, quantity, competitor, price targets, etc. (Gold: paragraph 0038). The Examiner notes that cost is also a criterion for business rules.

3. Referring to claim 3, Gold fails to teach defining a cut grade for said gemstone in response to receiving said product attribute and determining a competitive price for said gemstone utilizing said cut grade. Borgato teaches:

The product comprises a gemstone and determining a competitive price for said product utilizing said product attribute comprises:

- Defining a cut grade for said gemstone in response to receiving said product attribute: The first data structure can define each unique diamond by determining the weight class, cut shape subclass, cut grade sub-subclass, and color and clarity. With this configuration data relating to diamonds having particular characteristics can be assigned or linked to a unique position or category in the corresponding array and accessed therefrom (Borgato: Column 6, lines 55-61).
- Determining a competitive price for said gemstone utilizing said cut grade: The price can be provided in response to an automated request to respond to target pricing based on user input criteria, such as target price, competitor, competitor part number, etc (Gold: paragraph 0032). The corresponding matrix category also includes data identifying the seller of the diamond as well as the seller's

price at which he offers to the diamond (Borgato: Column 6, lines 63-66). If the seller has selected the inappropriate category, an error signal is generated and displayed (Borgato: Column 10, lines 3-4). The Examiner notes that the price array corresponds to the characteristic array that includes cut grade and that an inappropriate array cannot be selected based on target pricing.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include defining a cut grade for said gemstone in response to receiving said product attribute and determining a competitive price for said gemstone utilizing said cut grade as taught by Borgato in order to take into account the various factors effecting the price (Borgato: Column 2, line 3-4) and in order to determine a fair price regarding specific characteristics of a diamond (Borgato: Column 1, lines 61-64).

4. Referring to claim 4. Gold further teaches:

Defining a cut grade for said gemstone in response to receiving said product attribute comprises defining a cut grade for said gemstone utilizing said cut characteristic, and determining a competitive price for said product utilizing said product attribute further comprises:

- Determining a first price for said gemstone utilizing said first plurality of product attributes: Pricing tables may include current price tables containing OEM [original equipment manufacturer] prices for each part by quantity break, a futures pricing table containing reference prices by timeframe, a table containing other price points such as distributor book cost, a reference price to base future

pricing conversions, manufacturer costs, minimum costs, or other user-definable price points (Gold: paragraph 0035).

- Determining a second price for said gemstone utilizing said first price and said cut grade: Conversion factors, where distributor resale and distributor costs are being calculated, may be identified in a table. The price may be converted from the OEM price to distributor resale where there is a markup (Gold: paragraph 0040). The Examiner notes that markup conversion factors could correspond to the cut characteristics of Borgato's Table 2.

Gold fails to teach receiving a cut characteristic and a first plurality of product attributes including a shape, a color grading, a clarity grading, and a weight. Borgato teaches:

- Receiving said product attribute and said product cost corresponding to said product further comprises receiving a cut characteristic and a first plurality of product attributes including a shape, a color grading, a clarity grading, and a weight: Offer display includes locations to display the weight class, shape subclass, cut sub-subclass, clarity and color corresponding to the array category (Borgato: Column 9, lines 54-57). Table 2 shows the possible cut characteristics used to determine cut grade.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include receiving a cut characteristic and a first plurality of product attributes including a shape, a color grading, a clarity grading, and a weight as taught by

Borgato in order to categorize the diamonds to facilitate a transaction (Borgato: Column 2, lines 18-21).

5. Referring to claim 5. Gold fails to teach receiving a cut characteristic selected from the group. However Borgato teaches:

- Receiving a cut characteristic and a first plurality of product attributes including a shape, a color grading, a clarity grading, and a weight comprises receiving a cut characteristic selected from the group consisting of: a shape, a depth percentage, a pavilion depth, a table percentage, a table size, a crown percentage, a crown angle, a pavilion angle, a culet size, a girdle thickness, a faceting style, and a length-to-width ratio: Table 2 shows how cut grade sub-subclasses are determined in relation to round cut stones (Borgato: Column 6, lines 24-44). The Examiner notes that other shapes and sub-subclasses are well known in the art of gemology.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include receiving a cut characteristic selected from the group as taught by Borgato in order to provide the factors relating to the cut that contribute to the presentation of the diamond and hence its value.

6. Referring to claim 6. Gold further teaches:

- Determining a competitive price for said product utilizing said product attribute further comprises determining a competitive price for said gemstone utilizing said second price and said second plurality of product attributes: The price or modified price may be further adjusted by applying value added services (VAS)

rules. These rules can accommodate the design, application, and administration of price adders associated with value added services, such as special handling, packaging, programming, etc. (Gold: paragraph 0030). The Examiner notes that a second or modified price can be further modified by applying more business rules such as the above mentioned product attributes.

Gold fails to teach receiving a second plurality of product attributes including a polish grading, a symmetry grading, a fluorescence grading, and a lab certification identifier.

Borgato teaches:

- Receiving said product attribute and said product cost corresponding to said product further comprises receiving a second plurality of product attributes including a polish grading, a symmetry grading, a fluorescence grading, and a lab certification identifier: The comments which can be selected by the seller are as follows:
  - fluorescence of medium or stronger on "H" or higher.
  - dark inclusions on SI.sub.2, SI.sub.3, I.sub.1, I.sub.2 clarity.
  - color inclusions on SI.sub.2, SI.sub.3, I.sub.1, I.sub.2 clarity.
  - symmetry lower than fair.
  - finish lower than fair.
  - culet larger than "medium."
  - girdle with more than slightly thick average.
  - table proportion lower than good (50%-67%). (Borgato: Column 11, lines 4-13).

- The seller can input a stock number for the diamond (Borgato: Column 9, line 62).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include comprises receiving a second plurality of product attributes including a polish grading, a symmetry grading, a fluorescence grading, and a lab certification identifier as taught by Borgato in order to define the additional factors that may contribute to the overall value of the stone (Borgato: Column 1, lines 33-34).

7. Referring to claim 7. Gold further teaches:

Determining a competitive price for said gemstone utilizing said second price and said second plurality of product attributes comprises:

- Defining a competitive price modification factor for one of said second plurality of product attributes utilizing said first plurality of product attributes: Once the initial OEM price is derived from the pricing tables, business rules may be applied thereto (Gold: paragraph 0035).
- Determining a competitive price for said gemstone utilizing said second price and said competitive price modification factor: A set of variable business rules may be applied after the initial OEM price is derived utilizing the pricing tables (Gold: paragraph 0036). Business rules may be stored in a table, such as the table shown in paragraph 0037 (Gold). The business rules may accommodate the application of tabular pricing and associated derivatives (Gold: paragraph 0038). The Examiner notes that applying the business rules includes applying rules until a proper price

is calculated, which includes determining a competitive price, especially if comparing to a target price.

8. Referring to claim 9. Gold further teaches:

Comparing said sale price to said competitive price comprises:

- Defining a range of price values utilizing said competitive price: If targets are considered, the automated system, which may be a series of modules, such as the Price Management Modules, determines whether the calculated price is less than the target price (Gold: paragraph 0039). The Examiner notes that multiple target prices are considered which constitutes a range.
- Determining whether said sale price is within said range of price values: The system can select the target price rather than the calculated price when the target price is greater than the calculated price. Further, the system can also select the lesser of the two prices where the organization desires such a consequence. The OEM price can be calculated, converted to resale or cost and compared against the target (Gold: paragraph 0039). The Examiner notes in selecting a price that has been compared to the target shows that it has been determined to be within the range.

Gold fails to teach automatically displaying said product for sale on a website at said sale price in response to said comparison comprises displaying said product for sale on said website in response to a determination that said sale price is within said range of price values. Borgato teaches:

- Automatically displaying said product for sale on a website at said sale price in response to said comparison comprises displaying said product for sale on said website in response to a determination that said sale price is within said range of price values: the seller would select the corresponding array and array position within which to post the data for the stone to be offered for sale (Borgato: Column 9, line 67 – Column 10, line 3). The stone offered for sale represents the lowest offer price and accordingly the offer price matches the price of the stone listed (Borgato: Column 10, lines 51-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include automatically displaying said product for sale on a website at said sale price in response to said comparison comprises displaying said product for sale on said website in response to a determination that said sale price is within said range of price values as taught by Borgato in order to take into account the various factor effecting price when establishing a real-time, world-wide system and method for facilitating diamond transactions (Borgato: Column 2, lines 3- 14).

9. Referring to claims 12-18, and 20. Claims 12-18, and 20 are rejected on the same rationale as set forth above in claims 1-7, and 9.
10. Referring to claims 23-25. Claims 23-25 are rejected on the same rationale as set forth above in claims 1, 3, and 6, respectively.

**Claims 8, 19, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al. Patent Application Publication US2002/0032610**

**(hereinafter referred to as “Gold”) in view of Borgato US Patent No. 5,950,178 in further view of “Fancy cut grade research: A balance between art and science” by John Gallagher (hereinafter referred to as “Gallagher”).**

The combination of Gold and Borgato teaches the system and method discussed in the U.S.C. 103(a) rejection above. The combination fails to teach a gemstone comprises a fancy cut, said cut characteristic comprises a length-to-width ratio and defining a cut grade for said gemstone utilizing said length-to-width ratio. Gallagher teaches the study of fancy cut grades. Gallagher further teaches:

**11. Referring to claim 8.**

- Gemstone comprises a fancy cut, said cut characteristic comprises a length-to-width ratio and defining a cut grade for said gemstone utilizing said length-to-width ratio: While diamond-grading experts have made new discoveries about the technology needed to arrive at a cut grade system for fancy shaped diamonds, the task has only begun. A task force of experts has been investigating issues like length-to-width ratio on fancies (Gallagher: lines 1-6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Gold and Borgato to include a gemstone comprises a fancy cut, said cut characteristic comprises a length-to-width ratio and defining a cut grade for said gemstone utilizing said length-to-width ratio as taught by Gallagher in order to include proportions applicable to fancy cut diamonds (Gallagher: lines 24-25).

**12. Referring to claim 19. Claim 19 is rejected on the same rationale as set forth above in claim 8.**

Art Unit: 3625

13. Referring to claim 26. Claim 26 is rejected on the same rationale as set forth above in claim 8.

**Claims 10-11, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al. Patent Application Publication US2002/0032610 (hereinafter referred to as “Gold”) in view of Borgato US Patent No. 5,950,178 in further view of Phillips et al. Patent Application Publication US 2002/0116348 (hereinafter referred to as “Phillips”).**

14. Referring to claim 10. Gold teaches the system discussed above in the U.S. C. 103(a) rejection. Gold fails to teach displaying said product for sale on said website in response to a determination that said difference is less than or equal to said predefined threshold. Borgato teaches:

Automatically displaying said product for sale on a website at said sale price in response to said comparison comprises:

- Displaying said product for sale on said website in response to a determination that said difference is less than or equal to said predefined threshold: The corresponding matrix category also includes data identifying the seller of the diamond as well as the seller's price at which he offers to the diamond (Borgato: Column 6, lines 63-66). If the seller has selected the inappropriate category, an error signal is generated and displayed (Borgato: Column 10, lines 3-4). The Examiner notes that an inappropriate array cannot be selected based on target pricing.

Art Unit: 3625

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include displaying said product for sale on said website in response to a determination that said difference is less than or equal to said predefined threshold as taught by Borgato in order to determine a fair price regarding specific characteristics of a diamond (Borgato: Column 1, lines 61-64).

The combination of Gold and Borgato teaches the system and method discussed in the U.S.C. 103(a) rejection above. The combination fails to teach calculating a difference between said competitive price and said sale price, and comparing said difference between said competitive price and said sale price to a predefined threshold and calculating a difference between said competitive price and said sale price. Phillips teaches a dynamic pricing system. Phillips further teaches:

Comparing said sale price to said competitive price comprises:

- Calculating a difference between said competitive price and said sale price: The Price Optimizer (OPT) may optionally further assume that there is a maximum difference in prices for a product in two channel segments (Phillips: paragraph 0059).

Automatically displaying said product for sale on a website at said sale price in response to said comparison comprises:

- Comparing said difference between said competitive price and said sale price to a predefined threshold: The OPT may optionally further assume that there is a maximum difference in prices for a product in two channel segments, where this maximum difference is an absolute amount (such as prices cannot differ by more

than \$10) or a relative ratio in prices (such as prices cannot differ by more than 10%) (Phillips: paragraph 0059). The Examiner notes that the predefined threshold is \$10 or 10%.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include calculating a difference between said competitive price and said sale price, and comparing said difference between said competitive price and said sale price to a predefined threshold as taught by Phillips in order to adjust to account for changes in market conditions, and suggest different prices for different markets (Phillips: paragraph 0004), respectively.

15. Referring to claim 11. Gold teaches the system discussed above in the U.S. C. 103(a) rejection. Gold fails to teach displaying said product for sale on said website in response to a determination that said difference is less than or equal to said predefined threshold. Borgato teaches:

Automatically displaying said product for sale on a website at said sale price in response to said comparison comprises:

- Displaying said product for sale on said website in response to a determination that said difference is less than or equal to said predefined threshold: The corresponding matrix category also includes data identifying the seller of the diamond as well as the seller's price at which he offers to the diamond (Borgato: Column 6, lines 63-66). If the seller has selected the inappropriate category, an error signal is generated and displayed (Borgato: Column 10, lines 3-4). The

Examiner notes that an inappropriate array cannot be selected based on target pricing.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include displaying said product for sale on said website in response to a determination that said difference is less than or equal to said predefined threshold as taught by Borgato in order to determine a fair price regarding specific characteristics of a diamond (Borgato: Column 1, lines 61-64).

The combination of Gold and Borgato teaches the system and method discussed in the U.S.C. 103(a) rejection above. The combination fails to teach calculating a ratio of said sale price to said competitive price, and comparing said ratio of said sale price to said competitive price to a predefined threshold. Phillips further teaches:

Comparing said sale price to said competitive price comprises:

- Calculating a ratio of said sale price to said competitive price: The OPT may optionally further assume that there is a maximum difference in prices for a product in two channel segments, where this maximum a relative ratio in prices (such as prices cannot differ by more than 10%) (Phillips: paragraph 0059).

Automatically displaying said product for sale on a website at said sale price in response to said comparison comprises:

- Comparing said ratio of said sale price to said competitive price to a predefined threshold: The OPT may optionally further assume that there is a maximum difference in prices for a product in two channel segments, where this maximum difference is an absolute amount (such as prices cannot differ by more than \$10)

or a relative ratio in prices (such as prices cannot differ by more than 10%)  
(Phillips: paragraph 0059). The Examiner notes that the predefined threshold is  
\$10 or 10%.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gold to include calculating a ratio of said sale price to said competitive price, and comparing said ratio of said sale price to said competitive price to a predefined threshold as taught by Phillips in order to adjust to account for changes in market conditions, and suggest different prices for different markets (Phillips: paragraph 0004), respectively.

16. Referring to claims 21 and 22. Claims 21 and 22 are rejected on the same rationale as set forth above in claims 10 and 11.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

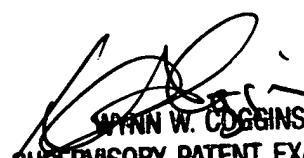
- Jadeite and its production. Vagarali et al. Patent Application Publication US 2003/0031869
- Integrated retail and wholesale system. Littman. Patent Application Publication US 2002/0184104
- Price estimation system. Kocher. Patent Application Publication US 2003/0061119
- Guaranteed pricing systems. McClung, III. Patent Application Publication US 2004/0143502

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah R. Gedrich whose telephone number is (703) 306-5449. The examiner can normally be reached on M-F 7:30am - 5:00pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRG



WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Sarah Gedrich  
Examiner  
Art Unit 3625